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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,322	02/02/2005	Yves Roesch	NITROF P60AUS	7676
20210 7590 03/06/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER ADAMS, GREGORY W				
ART UNIT		PAPER NUMBER		
3652				
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03/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,322

Applicant(s)

ROESCH, YVES

Examiner

GREGORY W. ADAMS

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-45 is/are allowed.
- 6) ☒ Claim(s) 31-40 and 46-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-40 & 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Botley (US 2,767,863) in view of Denton et al. (US 1,918,800).

With respect to claims 31-40 & 46-50, Botley discloses an interlacing device comprising:

- at least one interlacing gantry 10 comprising:
 - two upright posts 26 (two on each end in FIG. 1) having top ends and bottom ends, top ends fixedly connected to a cross-beam which extends generally parallel to at least a portion of a length of the elongated products when elongated products are being palletized, and a cross beam having a length greater than a length of elongated products; and
 - at least one interlacing guide 110 carried by a cross-beam 116 and movable with a cross-beam and two upright posts;
- wherein two fixed guide base sections 12, 16 extend parallel to one another and substantially perpendicular to a cross-beam 116, a bottom end movably coupled (indicated generally as 11) to a fixed guide section 12 so as to be movable along a fixed guide base sections; and

- a drive mechanism 21 for displacing an interlacing gantry relative to a fixed guide base section, between two alternate end positions such that an interlacing guide is displaced in at least one interlacing plane from one side to another side of a transport pallet, an interlacing plane essentially perpendicular to a elongated products when palletized, and a cross-beam.

(C5/L1-40)

Botley does not disclose two fixed guide sections, one for each of two uprights. Denton et al. discloses a portable stacking apparatus that can be moved between two end points, and further discloses a carriage having guide wheels 5 at a lower ends of uprights 4, said wheels 5 movably couple said uprights 4 to fixed guide base sections 46. Denton et al. teach that in the stacking art portability is improved through two base guide sections allowing a carriage the ability to navigate multiple locations under heavy loads such as lumber. P1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the uprights and base guide sections of Botley to include two fixed guide base sections, as per the teachings of Denton et al., for improve carriage portability.

Allowable Subject Matter

Claims 41-45 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The cited prior art does not disclose the combination of an interlacing machine with a palletizer as required. Specifically, the interlacing device of claim 41 moves between two points which along with a gripper on a separate carrier is novel to the art of interlacing palletizers.

Response to Arguments

Applicant's arguments with respect to claims 31-40 & 46-50 have been considered but are moot in view of the new ground(s) of rejection. New reference Botley discloses an interlacing gantry that moves from side to side to place interlacing material 110, 111 on successive layers between cans.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodríguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art
Unit 3652

/G. W. A./
Primary Examiner, Art Unit 3652
2/28/2008